

No. 13-1740 PO

¹References to “CSR” are to the Missouri Code of State Regulations, as current with amendments included in the Missouri Register through the most recent update.

establishes facts that Kuehnlein does not dispute and entitle the Director to a favorable decision. Certified records are admissible evidence.² With his motion, the Director submitted certified copies of records of the Circuit Court of the City of St. Louis. We gave Kuehnlein until December 17, 2013, to respond to the motion, but he did not respond. The following facts as established by the Director are undisputed.

Findings of Fact

1. Kuehnlein is licensed as a peace officer. His license was current and active at all relevant times.
2. On November 6, 2011, Kuehnlein attempted to cause physical injury to Denise Koenig by choking her and pulling her hair. Denise Koenig was an adult and had been involved in a continuing social relationship of a romantic or intimate nature with Kuehnlein.
3. On April 26, 2013, in the Circuit Court of the City of St. Louis, Missouri, Kuehnlein was found guilty of the class C felony of domestic assault in the second degree and the class A misdemeanor of domestic assault in the third degree. Kuehnlein was sentenced to five years' imprisonment for the felony and one year imprisonment for the misdemeanor. The court suspended execution of the sentences and placed Kuehnlein on probation.

Conclusions of Law

We have jurisdiction to hear this complaint.³ The Director has the burden of proving that Kuehnlein has committed an act for which the law allows discipline.⁴ Section 590.080.1(2) provides cause to discipline the license of any peace officer who “[h]as committed any criminal offense, whether or not a criminal charge has been filed[.]”

² Section 490.130, RSMo (2000). Statutory references, unless otherwise noted, are to the 2012 Supplement to the Revised Statutes of Missouri.

³ Section 621.045.

⁴ *Missouri Real Estate Comm’n v. Berger*, 764 S.W.2d 706, 711 (Mo. App., E.D. 1989).

Section 565.073⁵ regarding domestic assault in the second degree states:

1. A person commits the crime of domestic assault in the second degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo, and he or she:

(1) Attempts to cause or knowingly causes physical injury to such family or household member by any means, including but not limited to, by use of a deadly weapon or dangerous instrument, or by choking or strangulation[.]

2. Domestic assault in the second degree is a class C felony.

Section 565.074 regarding domestic assault in the third degree states:

1. A person commits the crime of domestic assault in the third degree if the act involves a family or household member or an adult who is or has been in a continuing social relationship of a romantic or intimate nature with the actor, as defined in section 455.010, RSMo, and:

(1) The person attempts to cause or recklessly causes physical injury to such family or household member[.]

2. Except as provided in subsection 3 of this section, domestic assault in the third degree is a class A misdemeanor.

Kuehnlein was found guilty of committing these two crimes. A conviction collaterally estops the issue of whether the person committed the criminal offense.⁶ Kuehnlein committed two criminal offenses, and is subject to discipline under § 590.080.1(2).

⁵ RSMo 2000.

⁶ *Carr v. Holt*, 134 S.W.3d 647, 649-50 (Mo. App., E.D. 2004) (citing *James v. Paul*, 49 S.W.3d 678, 682-83 (Mo. banc 2001)).

Summary

We grant the motion for summary decision and cancel the hearing.

SO ORDERED on December 27, 2013.

\s\ Sreenivasa Rao Dandamudi
SREENIVASA RAO DANDAMUDI
Commissioner